

**REMARKS IN REGARD TO OBJECTIONS TO RESPONSE TO AMENDMENT**

The Examiner has objected to the amendment filed on August 29, 2002, under 35 U.S.C. §132 stating that Applicant has added new matter to the disclosure of the invention. The amendment does not introduce new matter to the disclosure of the invention. As would be readily apparent to one of ordinary skill in the art, the figures clearly show a cross section of a transistor having a single isolation trench. *See* Declaration of Frank Hawley, dated March 25, 2003.

**REMARKS IN REGARD TO CLAIM REJECTIONS - 35 USC § 112**

The Examiner has rejected claims 5-10 filed on August 28, 2002, under 35 U.S.C. §112 stating that that there is no written description to support the claim limitation “an active region on the semiconductor substrate bounded by a single isolation trench having a uniform cross section.” As set forth in the Declaration of Frank Hawley, dated March 25, 2003, enclosed herewith, claims 5-10 *do show* a single isolation trench having a uniform cross section to one of ordinary skill in the art. *See* Declaration of Frank Hawley, dated March 25, 2003.

The references to “isolation trenches 62” are simply a description of the drawing of a cross section of a single isolation trench. In the cross section diagram, the single isolation trench can only be described as two trenches (having a uniform cross-section) surrounding the transistor.

**REMARKS IN REGARD TO CLAIM REJECTIONS - 35 USC § 102**

The Examiner rejected claims 5-7 under 35 U.S.C. § 102(b) as being anticipated by Mehta, et al. (U. S. Patent No. 5,646,063). As amended, claim 5 is not anticipated and Applicant respectfully disagrees with the Examiner's assertion that claims 5-7 are anticipated.

Mehta does not disclose a shallow-trench isolation transistor having an active region on the substrate bounded by a single isolation trench having a uniform cross-section as shown and disclosed in Applicant's invention. See Office Action mailed on June 6, 2002, page 2. Thus, Mehta does not teach all the claim limitations as required under 35 U.S.C. 102(b).

If a prior art reference cited as anticipating a claimed invention is shown to lack a characteristic of the claimed invention, that proof negates the assertion that the claimed invention was described in the prior art. *In re Mills*, 16 USPQ 2d 1430, 1432 (Fed. Cir. 1990). Thus, Applicant's claims 5 through 7 are not anticipated by Mehta.

**REMARKS IN REGARD TO CLAIM REJECTIONS - 35 USC § 103**

The Examiner has rejected claims 8-10 as being unpatentable under 35 U.S.C. 103(a) as being unpatentable over Mehta as applied to claim 3 above, and further in view of Liaw, et al. (U.S. Patent No. 5,960,276). Applicant respectfully disagrees.

As set forth above, Mehta does not teach all the claim limitations. In addition, Mehta actually teaches away from the claimed invention by teaching two isolation trenches that must be of varying width. Teaching away is the antithesis of the art suggesting that the person of ordinary skill go in the claimed direction. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596 (Fed. Cir. 1988). Claim 5 is neither anticipated nor

obvious. Therefore, if an independent claim is nonobvious under 35 U.S.C. 103, then any claims depending therefrom are nonobvious. *Id.*

**CONCLUSION**

For the foregoing reasons, Applicants submit that all of the claims elected in this application, claims 5-10, are in condition for allowance and Applicants respectfully request reconsideration and withdrawal of the present rejections. Should there be any further matter requiring consideration, the Examiner is invited to contact the undersigned counsel.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,  
Sierra Patent Group, Ltd.

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Andrew D. Gathy

Reg. No. 46,441, for:

Kristin C. Castle  
Reg. No. 47,208

Sierra Patent Group  
PO Box 6149  
Stateline, NV 89449  
(775) 586-9500